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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

*IN RE: SUBPOENA TO X CORP., Successor
in Interest to TWITTER, INC.*

Case No. 3:23-mc-80122

(Originating Case: S.D. Fla. 1:22-cv-24262-RKA)

**DECLARATION OF KERRY L. DUFFY
IN SUPPORT OF PLAINTIFF
RICCARDO SILVA'S MOTION TO
COMPEL THIRD-PARTY TWITTER,
INC. TO RESPOND TO SUBPOENA**

Date: TBD
Time: TBD
Ctrm.: TBD

I, Kerry L. Duffy, declare as follows:

21 1. I am an attorney duly licensed to practice in the State of California, and admitted to
22 appear before this Court. I am a Principal at the law firm of Bartko Zankel Bunzel & Miller,
23 attorneys of record for Plaintiff Riccardo Silva (“Plaintiff” or “Mr. Silva”). I have personal
24 knowledge of the facts set forth herein, except where it is stated as to information and belief, and if
25 called as a witness, I could and would competently testify thereto.

26 2. I make this declaration in support of Plaintiff's Motion to Compel Third-Party
27 X Corp., the successor in interest to Twitter, Inc. ("Twitter") to Respond to Subpoena, filed
28 concurrently herewith.

1 3. On April 3, 2023, a subpoena was served on Twitter, Inc.¹ (“Twitter”) issued out of
 2 the Northern District of California in connection with a pending case in the United States District
 3 Court for the Southern District of Florida under Case No. 1:22-cv-24262-RKA (“Florida
 4 Lawsuit”), with the place of compliance in San Francisco, California (the “Subpoena”).

5 4. Under this Court’s Local Rule 37, I met and conferred telephonically with counsel
 6 for Twitter, Jon Hawk, Esq., on April 17, 2023 regarding Twitter’s objections to the Subpoena.

7 5. I am informed and believe that Plaintiff’s Florida counsel, Adam Stoltz, had
 8 previously engaged in extensive discussions with Mr. Hawk in regard to that Subpoena, as well as
 9 a prior subpoena directed at Twitter on the same subject matter, as detailed in the Declaration of
 10 Adam Stoltz, which is filed concurrently herewith.

11 6. I spoke with Mr. Hawk to discuss whether there was any means of resolving
 12 Twitter’s failure to produce the requested discovery sought via the Subpoena. Mr. Hawk
 13 reiterated Twitter’s remaining objection on First Amendment grounds, taking the position that this
 14 is an issue for consideration and resolution by a Court, and that Twitter cannot comply with the
 15 Subpoena absent a Court Order directing compliance.

16 7. During our meet and confer discussion, Mr. Hawk confirmed that Twitter had
 17 provided notice of the Subpoena to the Doe Defendant(s) (*i.e.*, the user(s) or subscriber(s) who
 18 own(s) and operate(s) the Twitter handle or account, u/SOSSilva7, who made the defamatory
 19 statements at-issue in the Florida Litigation), and also confirmed that Twitter would provide the
 20 Doe Defendant(s) with copies of all filings related to this motion to compel in regard to the
 21 Subpoena.

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 27 ¹ I understand that “X Corp” is the successor in interest to Twitter, Inc., and is the entity objecting
 28 to the Subpoena. To avoid confusion, all references herein are to “Twitter.”

1 I declare under penalty of perjury under the laws of the United States of America that the
2 foregoing is true and correct.

3 This Declaration was executed this 20th day of April 2023, in El Dorado Hills, California.
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5 */s/ Kerry L. Duffy*
6 Kerry L. Duffy

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